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JAN 18 2006

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) Case No. 03-24 Erie
)
CURTIS MOSES,)
)
Defendant.)

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

DODD MOTION TO PRESERVE THE
RETROACTIVITY OF BOOKER AND SHEPARD

NOW COMES, the Defendant, Curtis Moses, and appearing pro se, hereby files this his "Dodd" motion in order to preserve his Sixth Amendment issues under the rules set forth by Apprendi v. New Jersey, 120 S.Ct. 2438 (2000) and United States v. Booker, 544 U.S. --- (2005), as well as United States v. Shepard, 545 U.S. --- (2005).

The Supreme Court has mandated that federal prisoners assert their claims on the basis of a newly recognized right within one year from when that right was first recognized, regardless of whether the case was made retroactive or not. Dodd, 162 L.Ed.2d 343, 351 (2005).

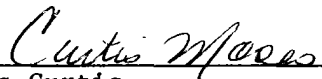
Defendant has (1) received numerous enhancements in this Court that were added to his sentence. Copies of those enhancements are attached hereto. In addition (2) the Defendant received criminal history points on prior-convictions, these convictions are attached hereto.

Because Defendant anticipates that the Sixth Amendment holdings of the Supreme Court in Booker must be made retroactive, and that the Court will hold that these issues will be a structural error, Defendant prays that this Court allow the Defendant to preserve these issues pending retro-activity.

WHEREFORE, facts and premises considered, the Defendant prays that this Court will allow the Defendant to preserve the issue of retroactivity based on the above.

Dated: January 10, 2006

Respectfully submitted,



Moses Curtis
Reg. No. 03351-087
FCI McKean
P.O. Box 8000
Bradford, PA. 16701-0980

DEFENDANT pro se

CERTIFICATE OF SERVICE

I do hereby certify that on this the 10th day of January, 2006, I placed in the U.S. Mail, first-class postage prepaid thereto, a true and correct copy of the above and foregoing to the United States Attorney.



Moses Curtis



United States Attorney
Western District of Pennsylvania

100 State Street, Suite 302
Erie, Pennsylvania 16507

814/452-2906

July 14, 2003

Thomas W. Patton, Assistant
Federal Public Defender
1111 Renaissance Centre
1001 State Street
Erie, Pennsylvania 16507

DRAFT

Re: United States of America v.
CURTIS MOSES
Criminal No. 03-24 Erie

Dear Mr. Patton:

This letter sets forth the agreement by which your client, CURTIS MOSES, will enter a plea of guilty in the above-captioned case. The letter represents the full and complete agreement between CURTIS MOSES and the United States Attorney for the Western District of Pennsylvania. The agreement does not apply to or bind any other federal, state, or local prosecuting authority.

Upon entering a plea of guilty, CURTIS MOSES will be sentenced under the Sentencing Guidelines promulgated by the United States Sentencing Commission and the Sentencing Reform Act, 18 U.S.C. §3551, et seq. and 28 U.S.C. §981, et seq. The facts relevant to sentencing shall be determined initially by the United States Probation Office and finally by the United States District Court.

A. The defendant, CURTIS MOSES, agrees to the following:

1. He will enter a plea of guilty to Count One of the Indictment at Criminal No. 03-24 Erie, charging him with violating Title 18, United States Code, Sections 1791(a)(2) and 1791(b)(3), pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

**LIMITED OFFICIAL
USE**

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2. If the Court imposes a fine or restitution as part of a sentence of incarceration, CURTIS MOSES agrees to participate in the United States Bureau of Prisons' Inmate Financial Responsibility Program, through which 50% of his prison salary will be applied to pay the fine or restitution.
3. At the time CURTIS MOSES enters his plea of guilty, he will deposit a special assessment of \$100 in the form of cash, or check or money order payable to "Clerk, U.S. District Court". In the event that sentence is not ultimately imposed, the special assessment deposit will be returned.

B. In consideration of and entirely contingent upon the provisions of Parts A and C of this agreement, the United States Attorney for the Western District of Pennsylvania agrees to the following:

1. The United States Attorney retains the right of allocution at the time of sentencing to advise the sentencing court of the full nature and extent of the involvement of CURTIS MOSES in the offense charged in the Indictment and of any other matters relevant to the imposition of a fair and just sentence.
2. Prior to sentencing, the United States Attorney will, orally or in writing, recommend that, pursuant to Section 3E1.1 of the Sentencing Guidelines, the court reduce the offense level by two levels for acceptance of responsibility on the grounds that CURTIS MOSES:
 - (a) Voluntarily and truthfully admitted to authorities his involvement in the offense and related conduct;
 - (b) Timely manifested acceptance of responsibility.
3. The United States Attorney will take any position she deems appropriate in the course of any appeals from the sentence or in response to any post-sentence motions.

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C. CURTIS MOSES and the United States Attorney further understand and agree to the following:

1. The maximum penalty that may be imposed upon CURTIS MOSES is:
 - (a) A term of imprisonment of not more than five (5) years;
 - (b) A fine of \$250,000;
 - (c) A term of supervised release of not more than three (3) years;
 - (d) A special assessment under 18 U.S.C. §3013 of \$100.
2. This agreement does not preclude the government from pursuing any civil or administrative remedies against CURTIS MOSES or his property.

This letter sets forth the full and complete terms and conditions of the agreement between CURTIS MOSES and the United States Attorney for the Western District of Pennsylvania, and there are no other agreements, promises, terms or conditions, express or implied.

Very truly yours,

MARY BETH BUCHANAN
United States Attorney

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I have received this letter from my attorney, Thomas W. Patton, Assistant Federal Public Defender, have read it and discussed it with him, and I hereby accept it and acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the Western District of Pennsylvania. I affirm that there have been no additional promises or representations made to me by any agents or officials of the United States in connection with this matter.

CURTIS MOSES

Date

Witnessed by:

DRAFT

THOMAS W. PATTON, Assistant
Federal Public Defender
Counsel for CURTIS MOSES